

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DEBORAH LUCERO-AYLOR
9486 Polhemus Drive
Elk Grove, CA 95624

Registered Nurse License No. **390978**

Respondent

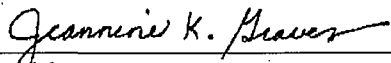
Case No. 2011-702

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **September 2, 2011.**

IT IS SO ORDERED **August 5, 2011.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-702

12 **DEBORAH LUCERO-AYLOR**

13 9486 Polhemus Drive
14 Elk Gove, California 95624

15 **Registered Nurse License No. RN 390978**

16 Respondent.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Elena L.
24 Almanzo, Deputy Attorney General.

25 2. Respondent Deborah Lucero-Aylor, aka Deborah Kay Lucero (Respondent) is
26 represented in this proceeding by attorney Mary-Alice Coleman, whose address is: 1109
27 Kennedy Place, Suite #2, Davis, CA 95616
28

3. On or about August 31, 1985, the Board of Registered Nursing issued Registered Nurse License No. 390978 to Deborah Lucero-Aylor, aka Deborah Kay Lucero (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-702 and will expire on May 31, 2011, unless renewed.

JURISDICTION

4. Accusation No. 2011-702 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 10, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-702 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-702. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2011-702.

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board of Registered Nursing (Board)'s probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

//

//

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

Upon successful completion of probation, Respondent's license shall be fully restored.

4

1 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
2 or practice as a registered nurse outside of California shall not apply toward a reduction of this
3 probation time period. Respondent's probation is tolled, if and when she resides outside of
4 California. Respondent must provide written notice to the Board within 15 days of any change of
5 residency or practice outside the state, and within 30 days prior to re-establishing residency or
6 returning to practice in this state.

7 Respondent shall provide a list of all states and territories where she has ever been licensed
8 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
9 information regarding the status of each license and any changes in such license status during the
10 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
11 license during the term of probation.

12 5. **Submit Written Reports.** Respondent, during the period of probation,
13 shall submit or cause to be submitted such written reports/declarations and verification of actions
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation
16 Program. Respondent shall immediately execute all release of information forms as may be
17 required by the Board or its representatives.

18 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
19 state and territory in which she has a registered nurse license.

20 6. **Function as a Registered Nurse.** Respondent, during the period of
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24
22 hours per week for 6 consecutive months or as determined by the Board.

23 For purposes of compliance with the section, "engage in the practice of registered nursing"
24 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
25 non-direct patient care position that requires licensure as a registered nurse.

26 The Board may require that advanced practice nurses engage in advanced practice nursing
27 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

28 If Respondent has not complied with this condition during the probationary term, and

1 Respondent has presented sufficient documentation of her good faith efforts to comply with this
2 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
3 extension of Respondent's probation period up to one year without further hearing in order to
4 comply with this condition. During the one year extension, all original conditions of probation
5 shall apply.

6 7: **Employment Approval and Reporting Requirements.** Respondent shall
7 obtain prior approval from the Board before commencing or continuing any employment, paid or
8 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
9 performance evaluations and other employment related reports as a registered nurse upon request
10 of the Board.

11 Respondent shall provide a copy of this Decision to her employer and immediate
12 supervisors prior to commencement of any nursing or other health care related employment.

13 In addition to the above, Respondent shall notify the Board in writing within seventy-two
14 (72) hours after she obtains any nursing or other health care related employment. Respondent
15 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
16 separated, regardless of cause, from any nursing, or other health care related employment with a
17 full explanation of the circumstances surrounding the termination or separation.

18 8. **Supervision.** Respondent shall obtain prior approval from the Board
19 regarding Respondent's level of supervision and/or collaboration before commencing or
20 continuing any employment as a registered nurse, or education and training that includes patient
21 care.

22 Respondent shall practice only under the direct supervision of a registered nurse in good
23 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
24 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
25 approved.

26 Respondent's level of supervision and/or collaboration may include, but is not limited to the
27 following:

28 (a) Maximum - The individual providing supervision and/or collaboration is present in

1 the patient care area or in any other work setting at all times.

2 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
3 care unit or in any other work setting at least half the hours Respondent works.

4 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
5 person communication with Respondent at least twice during each shift worked.

6 (d) Home Health Care - If Respondent is approved to work in the home health care
7 setting, the individual providing supervision and/or collaboration shall have person-to-person
8 communication with Respondent as required by the Board each work day. Respondent shall
9 maintain telephone or other telecommunication contact with the individual providing supervision
10 and/or collaboration as required by the Board during each work day. The individual providing
11 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
12 patients' homes visited by Respondent with or without Respondent present.

13 9. **Employment Limitations.** Respondent shall not work for a nurse's
14 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
15 traveling nurse, or for an in-house nursing pool.

16 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
17 registered nursing supervision and other protections for home visits have been approved by the
18 Board. Respondent shall not work in any other registered nursing occupation where home visits
19 are required.

20 Respondent shall not work in any health care setting as a supervisor of registered nurses.
21 The Board may additionally restrict Respondent from supervising licensed vocational nurses
22 and/or unlicensed assistive personnel on a case-by-case basis.

23 Respondent shall not work as a faculty member in an approved school of nursing or as an
24 instructor in a Board approved continuing education program.

25 Respondent shall work only on a regularly assigned, identified and predetermined
26 worksite(s) and shall not work in a float capacity.

27 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
28 request documentation to determine whether there should be restrictions on the hours of work.

1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
5 Respondent shall submit to the Board the original transcripts or certificates of completion for the
6 above required course(s). The Board shall return the original documents to Respondent after
7 photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$537.50. Respondent shall be permitted to pay these costs in a payment plan approved
11 by the Board, with payments to be completed no later than three months prior to the end of the
12 probation term.

13 If Respondent has not complied with this condition during the probationary term, and
14 Respondent has presented sufficient documentation of her good faith efforts to comply with this
15 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
16 extension of Respondent's probation period up to one year without further hearing in order to
17 comply with this condition. During the one year extension, all original conditions of probation
18 will apply.

19 12. **Violation of Probation.** If Respondent violates the conditions of her
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
21 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

22 If during the period of probation, an accusation or petition to revoke probation has been
23 filed against Respondent's license or the Attorney General's Office has been requested to prepare
24 an accusation or petition to revoke probation against Respondent's license, the probationary
25 period shall automatically be extended and shall not expire until the accusation or petition has
26 been acted upon by the Board.

27 13. **License Surrender.** During Respondent's term of probation, if she ceases
28 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

1 probation, Respondent may surrender her license to the Board. The Board reserves the right to
2 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
3 take any other action deemed appropriate and reasonable under the circumstances, without further
4 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
5 longer be subject to the conditions of probation.

6 Surrender of Respondent's license shall be considered a disciplinary action and shall
7 become a part of Respondent's license history with the Board. A registered nurse whose license
8 has been surrendered may petition the Board for reinstatement no sooner than the following
9 minimum periods from the effective date of the disciplinary decision:

10 (1) Two years for reinstatement of a license that was surrendered for any reason other
11 than a mental or physical illness; or

12 (2) One year for a license surrendered for a mental or physical illness.

13 14. **Physical Examination.** Within 45 days of the effective date of this
14 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
15 physician assistant, who is approved by the Board before the assessment is performed, submit an
16 assessment of the Respondent's physical condition and capability to perform the duties of a
17 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
18 medically determined, a recommended treatment program will be instituted and followed by the
19 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
20 to the Board on forms provided by the Board.

21 If Respondent is determined to be unable to practice safely as a registered nurse, the
22 licensed physician, nurse practitioner, or physician assistant making this determination shall
23 immediately notify the Board and Respondent by telephone, and the Board shall request that the
24 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
25 immediately cease practice and shall not resume practice until notified by the Board. During this
26 period of suspension, Respondent shall not engage in any practice for which a license issued by
27 the Board is required until the Board has notified Respondent that a medical determination
28 permits Respondent to resume practice. This period of suspension will not apply to the reduction

1 of this probationary time period.

2 If Respondent fails to have the above assessment submitted to the Board within the 45-day
3 requirement, Respondent shall immediately cease practice and shall not resume practice until
4 notified by the Board. This period of suspension will not apply to the reduction of this
5 probationary time period. The Board may waive or postpone this suspension only if significant,
6 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
7 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
8 Only one such waiver or extension may be permitted.

9 **15. Participate in Treatment/Rehabilitation Program for Chemical**
10 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
11 period or shall have successfully completed prior to commencement of probation a Board-
12 approved treatment/rehabilitation program of at least six months duration. As required, reports
13 shall be submitted by the program on forms provided by the Board. If Respondent has not
14 completed a Board-approved treatment/rehabilitation program prior to commencement of
15 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
16 a program. If a program is not successfully completed within the first nine months of probation,
17 the Board shall consider Respondent in violation of probation.

18 Based on Board recommendation, each week Respondent shall be required to attend at least
19 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
20 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
21 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
22 added. Respondent shall submit dated and signed documentation confirming such attendance to
23 the Board during the entire period of probation. Respondent shall continue with the recovery plan
24 recommended by the treatment/rehabilitation program or a licensed mental health examiner
25 and/or other ongoing recovery groups.

26 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
27 shall completely abstain from the possession, injection or consumption by any route of all
28 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when

1 the same are ordered by a health care professional legally authorized to do so as part of
2 documented medical treatment. Respondent shall have sent to the Board, in writing and within
3 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
4 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
5 medication will no longer be required, and the effect on the recovery plan, if appropriate.

6 Respondent shall identify for the Board a single physician, nurse practitioner or physician
7 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
8 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
9 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
10 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
11 considered addictive have been prescribed, the report shall identify a program for the time limited
12 use of any such substances.

13 The Board may require the single coordinating physician, nurse practitioner, or physician
14 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
15 medicine.

16 **17. Submit to Tests and Samples.** Respondent, at her expense, shall
17 participate in a random, biological fluid testing or a drug screening program which the Board
18 approves. The length of time and frequency will be subject to approval by the Board.
19 Respondent is responsible for keeping the Board informed of Respondent's current telephone
20 number at all times. Respondent shall also ensure that messages may be left at the telephone
21 number when she is not available and ensure that reports are submitted directly by the testing
22 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
23 to the Board by the program and Respondent shall be considered in violation of probation.

24 In addition, Respondent, at any time during the period of probation, shall fully cooperate
25 with the Board or any of its representatives, and shall, when requested, submit to such tests and
26 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
27 hypnotics, dangerous drugs, or other controlled substances.

28 If Respondent has a positive drug screen for any substance not legally authorized and not

1 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
2 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
3 practice pending the final decision on the petition to revoke probation or the accusation. This
4 period of suspension will not apply to the reduction of this probationary time period.

5 If Respondent fails to participate in a random, biological fluid testing or drug screening
6 program within the specified time frame, Respondent shall immediately cease practice and shall
7 not resume practice until notified by the Board. After taking into account documented evidence
8 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
9 suspend Respondent from practice pending the final decision on the petition to revoke probation
10 or the accusation. This period of suspension will not apply to the reduction of this probationary
11 time period.

12 18. **Mental Health Examination.** Respondent shall, within 45 days of the
13 effective date of this Decision, have a mental health examination including psychological testing
14 as appropriate to determine her capability to perform the duties of a registered nurse. The
15 examination will be performed by a psychiatrist, psychologist or other licensed mental health
16 practitioner approved by the Board. The examining mental health practitioner will submit a
17 written report of that assessment and recommendations to the Board. All costs are the
18 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
19 result of the mental health examination will be instituted and followed by Respondent.

20 If Respondent is determined to be unable to practice safely as a registered nurse, the
21 licensed mental health care practitioner making this determination shall immediately notify the
22 Board and Respondent by telephone, and the Board shall request that the Attorney General's
23 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
24 practice and may not resume practice until notified by the Board. During this period of
25 suspension, Respondent shall not engage in any practice for which a license issued by the Board
26 is required, until the Board has notified Respondent that a mental health determination permits
27 Respondent to resume practice. This period of suspension will not apply to the reduction of this
28 probationary time period.

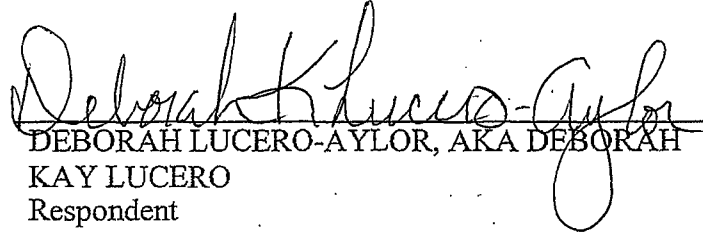
1 If Respondent fails to have the above assessment submitted to the Board within the 45-day
2 requirement, Respondent shall immediately cease practice and shall not resume practice until
3 notified by the Board. This period of suspension will not apply to the reduction of this
4 probationary time period. The Board may waive or postpone this suspension only if significant,
5 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
6 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
7 Only one such waiver or extension may be permitted.

8 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
9 participate in an on-going counseling program until such time as the Board releases her from this
10 requirement and only upon the recommendation of the counselor. Written progress reports from
11 the counselor will be required at various intervals.

12 ACCEPTANCE

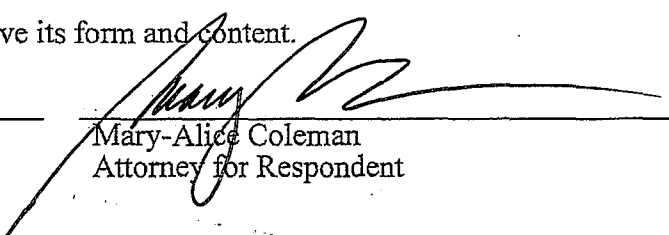
13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
14 discussed it with my attorney, Mary-Alice Coleman. I understand the stipulation and the effect it
15 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
17 Decision and Order of the Board of Registered Nursing.

18
19 DATED: 6/3/11


DEBORAH LUCERO-AYLOR, AKA DEBORAH
KAY LUCERO
Respondent

22 I have read and fully discussed with Respondent Deborah Lucero-Aylor, aka Deborah Kay
23 Lucero the terms and conditions and other matters contained in the above Stipulated Settlement
24 and Disciplinary Order. I approve its form and content.

25 DATED: 6/3/11


Mary-Alice Coleman
Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 6/8/2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

SA2010102851
10705588.doc

Exhibit A

Accusation No. 2011-702

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2011-702**

12 **DEBORAH LUCERO-AYLOR**

A C C U S A T I O N

13 9486 Polhemus Drive
14 Elk Grove, California 95624

15 **Registered Nurse License No. RN 390978**

16 Respondent.

17 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about August 31, 1985, the Board issued Registered Nurse License Number
22 390978 to Deborah Lucero-Aylor ("Respondent"). The license was in full force and effect at all
23 times relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.

24 **JURISDICTION**

25 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
26 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
27 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
28 Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct.
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do the following:

- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime)**

3 8. Respondent is subject to discipline under Code section 2761(f), in that on or about
4 August 2, 2010, in the case of *People v. Deborah K. Lucero*, (Super. Ct. Sacramento County,
5 Case No. 10T02945), Respondent was convicted by the Court on her plea of nolo contendere of
6 violating Vehicle Code section 23152(b) (driving with a blood alcohol level of .08% or higher),
7 with an enhancement of Vehicle Code section 23578 (excessive blood alcohol level), a crime that
8 is substantially related to the qualifications, functions or duties of a licensed registered nurse. The
9 circumstances of the crime was that on or about April 30, 2010, Respondent drove a vehicle while
10 having a blood alcohol level of 0.23%.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Dangerous Use of Alcohol)**

13 9. Respondent is subject to discipline under Code sections 2761(a), on the grounds of
14 unprofessional conduct, as defined in Code section 2762(b), in that on or about April 30, 2010,
15 Respondent used an alcoholic beverage to an extent or in a manner dangerous or injurious to
16 herself and the public when she operated a vehicle with a blood alcohol level of 0.23%.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Conviction Involving the Consumption of Alcohol)**

19 10. Respondent is subject to discipline under Code section 2761(a), on the grounds of
20 unprofessional conduct as defined in Code section 2762(c), in that on or about August 2, 2010,
21 Respondent was convicted of a crime involving the consumption of alcohol, as more particularly
22 set forth above in paragraph 8.

23 **PRAYER**

24 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number 390978, issued to
27 Deborah Lucero-Aylor;


28 ///

1 2. Ordering Deborah Lucero-Aylor to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.

5 DATED: _____

2/10/11

for 

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2010102851
10656822.doc

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DEBORAH KAY LUCERO-AYLOR
8184 Burloak Way
Elk Grove, California 95758

Registered Nurse License Number 390978

Respondent.

Case No. 2001-259

OAH No. N2001060444

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on November 19, 2001.

IT IS SO ORDERED October 19, 2001.

Sandra K. Erickson

SANDRA ERICKSON, CRNA
PRESIDENT
BOARD OF REGISTERED NURSING
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DEBORAH KAY LUCERO-AYLOR
8184 Burloak Way
Elk Grove, California 95758

Registered Nurse License Number 390978

Respondent.

Case No. 2001-259

OAH No. N2001060444

PROPOSED DECISION

On August 13, 2001, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Steven M. Kahn, Deputy Attorney General, represented the complainant.

Deborah K. Lucero-Aylor, ("respondent"), appeared in her own behalf.

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. Ruth Ann Terry, R.N., M.P.H., Executive Officer, Board of Registered Nursing ("Board"), filed the Accusation against respondent. Ms. Terry acted in her official capacity.

2. On or about August 31, 1985, the Board issued Registered Nurse License Number 390978 to respondent. The license has been in full force and effect at all times relevant to this matter and will expire on May 31, 2003, if not renewed.

3. Methamphetamine is a schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2).

Marijuana is a schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13).

4. On or about April 26, 2000, in the Sacramento County Superior Court, State of California, in the matter entitled People v. Deborah K. Lucero, case number 00M02627, respondent was convicted on her plea of nolo contendere of a violation of Penal Code section 484(a) (petty theft), a misdemeanor. Respondent is still subject to a three (3) year, non-reporting probation.

Respondent's crime is substantially related to the qualifications, functions and duties of the licensed activity. The facts and circumstances of respondent's crime are that on or about September 19, 1999, respondent willfully and unlawfully stole, took and carried away a book and a compact disc, the personal property of another, to wit: Wal Mart.

5. During 1999, including in or about September of 1999, while licensed as a registered nurse in California, respondent did the following:

- a. She possessed methamphetamine in violation of Health and Safety Code section 11350.
- b. She possessed marijuana in violation of Health and Safety Code section 11357.
- c. She self-administered methamphetamine and marijuana without having lawful authority therefor.

6. Respondent is 45 years of age, married with two children and a grandchild. She has a two (2) year college degree and has been a licensed as a registered nurse since 1985. She works part-time as a labor and delivery night charge nurse at Kaiser, working 3, 8-hour shifts a week. She has patient and supervisory duties. She has no immediate supervisor on duty during her shift from 11:00 p.m. until 7:30 a.m. She has received good job evaluations and loves her job. She keeps up with her continuing education and certifications.

Respondent worked in post-partum, labor and delivery at Methodist Hospital from 1985 until 1989. She left there for better hours and benefits at the University of California, Davis, Sacramento Medical Center. She worked there from 1989 until 1994, again in post partum, labor and delivery. She was let go because of a problem regarding non-drug related charting, then was allowed to resign. She worked through a registry for about a month, then worked at the Sutter Davis Hospital from 1994 until 1996 in the same areas of the hospital as at previous jobs. She left that job for a job at Kaiser Permanente Hospital with better pay and a work site closer to home. She has been at Kaiser since.

Respondent was under much stress in late 1999, early 2000, when the violations occurred. Her daughter had just been diagnosed with Multiple Sclerosis (MS), her marriage was in disarray and they had some people staying with them in their home. However, she had also used drugs recreationally on and off for 10 to 15 years, but denies using drugs or being under the influence of them while at work. She used marijuana one to two times a week and methamphetamine two to three times a month when out with friends.

Respondent has been clean and sober for a year and a half. She successfully completed a one-year chemical dependency program at Kaiser, as ordered by the court as part of probation. The program required three meetings a week for the first two months, two meetings a week for the next four months and one meeting a week for the last six months, plus attendance at two 12-step meetings a week, obtain a 12-step sponsor and submit to random drug testing. Respondent was subjected to 28 random drug and alcohol screens during the program and all were clean. She is receiving counseling for her chemical dependency and other problems. She is actively involved in Narcotics Anonymous, has a sponsor and is on step 8 of the 12-step program. She attends two meetings a week at Narcotics Anonymous. She is working hard to control her addiction to drugs and to not return to using them.

Respondent wants to keep her license and needs it to help support her family. She is willing to comply with whatever terms and conditions of probation that are imposed and on June 21, 2001 had a physical examination at Kaiser to demonstrate that she is fit for work. She is willing to provide the entire results of the physical to the board, if the Board wants it.

7. Larry Aylor has been married to respondent for 15 years. He noted that respondent has been under much stress during the last 3 years, especially as a result of the diagnoses of their older daughter with MS, plus it was stressful when people were staying with them. He and the children support respondent in her efforts to stay clean and sober.

He had a similar drug problem in the past but has not used drugs in the last few years and was unaware of her recreational use. When he learned about it, he did what he could to stop her from using drugs. He was only able to attend about 4 drug diversion meetings with respondent because he works in the evening and the meetings were in the evening.

8. The Board entered into evidence certifications of costs for the investigation and prosecution of this matter through the filing of Accusation. The total certified costs were \$5,352.00.

LEGAL CONCLUSIONS

1. Cause for discipline of respondent's license was established for violation of Business and Professions Code section 2761(f), as found in Finding 4.

2. Cause for discipline of respondent's license was established for violation of Business and Professions Code sections 2761(a) and 2762(a), as found in Findings 3 and 5.

3. However, respondent presented significant evidence of her efforts to rehabilitate herself and of her success in those efforts, which justify granting her a restricted license, as found in Findings 6 and 7.

4. Pursuant to Business and Professions Code section 125.3, if a licensee is found to have committed a violation or violations, the Board can recover its reasonable costs of investigation and enforcement. In this case the reasonable costs of investigation and enforcement were \$5,352, as found in Finding 8.

ORDER

Registered Nurse License number 390978, which was issued to respondent Deborah Kay Lucero-Aylor, is revoked. However, the revocation is stayed and respondent is placed on probation for three (3) years on the following terms and conditions:

SEVERABILITY CLAUSE - Each term and condition of probation contained herein is a separate and distinct term and condition. If any term and condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each term and condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" X 2" photograph of himself or herself within 45 days of the effective date of the final decision.

2. **COMPLY WITH PROBATION PROGRAM** - Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

4. **RESIDENCY OR PRACTICE OUTSIDE OF STATE** - Periods of residency or practice as a registered nurse outside of California will not apply to the reduction of this probationary term. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

5. **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

PROVIDE DECISION - Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

6. **FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition.

7. **EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS** -

Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to his or her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment, when such employment is not as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after he or she is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

8. **SUPERVISION** - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing any employment as a registered nurse.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact

with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

9. **EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **COMPLETE A NURSING COURSE**

Respondent, at her own expense, shall enroll and successfully complete a course regarding substance abuse no later than six months prior to the end of his or her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course. The Board shall return the original documents to respondent after photocopying them for its records.

11. **COST RECOVERY** - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$5,352. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

12. **VIOLATION OF PROBATION** – If a respondent violates the conditions of his/her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the respondent's license will be fully restored.

13. **PHYSICAL EXAMINATION** - Within 45 days of the effective date of this decision, respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Probation Program and respondent by telephone. Respondent shall immediately cease practice and shall not resume practice until notified by the Probation Monitor. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Probation Monitor has notified respondent that a medical determination permits respondent to resume practice.

14. **PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE** - Respondent, at his/her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Probation Program recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12 step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS** Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so and are part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

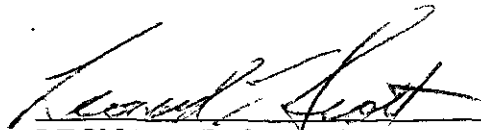
The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. **SUBMIT TO TESTS AND SAMPLES** - Respondent, at his/her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation.

Dated: September 11, 2001



LEONARD L. SCOTT

Administrative Law Judge

Office of Administrative Hearings

1 BILL LOCKYER, Attorney General
of the State of California
2 STEVEN M. KAHN, State Bar No. 53846
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, California 94244-2550
5 Telephone: (916) 324-5338
Facsimile: (916) 324-5567

6 Attorneys for Complainant
7

8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2001-259

12 **DEBORAH KAY LUCERO-AYLOR**
8184 Burloak Way
13 Elk Grove, California 95758

A C C U S A T I O N

14 Registered Nurse License No. 390978

15 Respondent.
16

17 Complainant alleges:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about August 31, 1985, the Board of Registered Nursing ("Board")
23 issued Registered Nurse License Number 390978 to Deborah Kay Lucero-Aylor ("Respondent").
24 The Registered Nurse License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on May 31, 2001, unless renewed.

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3. Section 2750 of the Business and Professions Code ("Code") provides, in

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

"(f) Conviction of a felony or of any offense substantially related to the

5. Section 2762 of the Code states, in pertinent part, that in addition to other

6. Section 2764 of the Code provides, in pertinent part, that the expiration of

7. Section 125.3 of the Code provides, in pertinent part, that the Board may

1 8. DRUGS

2 "Methamphetamine," is a Schedule II controlled substance as designated by
3 Health and Safety Code section 11055(d)(2).

4 "Marijuana" is a Schedule I controlled substance as designated by Health and
5 Safety Code section 11054(d)(13).

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction)

8 9. Respondent has subjected her license to discipline under section 2761(f)
9 of the Code in that on or about April 26, 2000, she was convicted by the court on her plea of nolo
10 contendere for violating Penal Code section 484(a) (petty theft) in Sacramento County Superior
11 Court, State of California, case number 00M02627, entitled People v. Deborah K. Lucero. The
12 circumstances surrounding the conviction are substantially related to the qualifications, functions
13 or duties of a registered nurse in that on or about September 19, 1999, Respondent willfully and
14 unlawfully stole, took and carried away a book, and compact disc, the personal property of
15 another, to wit; Wal Mart.

16 SECOND CAUSE FOR DISCIPLINE

17 (Unprofessional conduct - Controlled Substance)

18 10. Respondent has subjected her license to discipline under section 2761(a)
19 of the Code on the grounds of unprofessional conduct as defined in section 2762(a) of the Code
20 in that during 1999 including in or about September 1999, Respondent, while licensed as a
21 registered nurse in California, did the following:

22 a. She possessed methamphetamine in violation of Health and Safety Code
23 section 11350.

24 b. She possessed marijuana in violation of Health and Safety Code section
25 11357.

26 c. She self-administered methamphetamine and marijuana without having
27 lawful authority therefor.

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 390978, issued
5 to Deborah Kay Lucero-Aylor;

6 2. Ordering Deborah Kay Lucero-Aylor to pay the Board of Registered
7 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 3/26/01.

11
12
13 Ruth Ann Terry
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
20
21
22
23
24
25
26